United Nations ST/IC/1999/79

Secretariat

22 September 1999

Information circular*

To: Members of the staff

From: The Under-Secretary-General for Management

Subject: **Report on the work of the panels on discrimination and other grievances**

1. The Under-Secretary-General for Management has responsibility for the administration of the internal justice system, including the organization of the panels on discrimination and other grievances. The present information circular, which reports on the work of the panels during the periods indicated below in respect of each Panel, is issued pursuant to paragraph 19 of administrative instruction ST/AI/308/Rev.1 of 25 November 1983.

2. The panels at Headquarters, Geneva, Nairobi, Bangkok, Vienna, Beirut and Addis Ababa submitted reports on their activities to the Secretary-General, which are presented below.

3. The panels in Santiago and Bangkok did not consider any cases during 1997 and 1998. The Economic Commission for Latin America and the Caribbean (ECLAC) is reconstituting a panel for the years 1999–2000. The Panel in Jerusalem did not submit a report on its activities.

I. Activities of the Panel at Headquarters for the period from 19 November 1997 to 31 December 1998

A. Membership

4. On 19 November 1997, a new Panel was approved for a term of two years on the recommendation of the Joint Advisory Committee. The membership of the new Panel is: Sheila Abramovitz, Mark Anthony, Marion Awwad, Phyllis Browne, Trevor Delmore, Anthony Fernandes, Judith Goss, Maxwell Haywood, Robert Johnston, Philomena Kintu, Chantal Reiter-Burns, Kelvin Widdows and Pamela Zapata.

5. Sergei Kambalov was appointed Coordinator and Joan Ellen Miller continued to serve as the Secretary of the Panel.

* Expiration date of the present circular is 31 January 2000.

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B. Procedures

6. Grievances are brought to the attention of the Panel by staff members contacting any Panel member, the Coordinator or the Secretary of the Panel. At present, if it is found that the situation in question warrants the involvement of the Panel, the complainant is advised formally to submit the grievance to the Panel. In many instances, discussions with the complainant and, as appropriate, with other staff members involved result in a resolution of the situation without the formal involvement of the Panel. There were instances, however, when it was determined at the initial stage that the Panel either had no jurisdiction in the particular situation, or that there were no convincing arguments in support of the grievance claim, or the complaint was without merit.

7. Once a grievance case is accepted by the Panel, the Coordinator appoints a member of the Panel to look into the circumstances and the substance of the grievance. In addition to discussing the situation with the complainant and the other staff member(s) involved, the Panel member seeks input and information from staff members familiar with the situation, including representatives of the Administration, and, if necessary, analyses relevant official documentation. Strict confidentiality is maintained throughout the whole process. No reference to the Panel's proceedings are included in the staff member's official status files with the exception of a summary of the Panel's final recommendation, if the staff member requests it. It is also important to note that in addressing all conflict situations, the Panel never assumes the role of advocate or counsel of any party of a grievance but acts, in accordance with its terms of reference, with complete impartiality.

8. In some cases, the conflict is resolved by the parties identifying, with the facilitation of the member of the Panel, a solution that is acceptable to both sides. If such an outcome proves impossible, the Panel member identifies, in consultation with the whole Panel if necessary, a course of action which seems most promising in preventing the escalation of the conflict and in defusing it, such as mediation or a right-based approach. In this regard, the present Panel has greatly benefited from the two specially designed training courses in conflict resolution and collaborative negotiations, organized for the Panel by the Office of Human Resources Management. The Panel strongly believes that mediation should become its prevalent method of addressing grievances brought to its attention.

9. In situations when all efforts to resolve the grievance informally fail, the Panel member reports the case to the plenary of the Panel, which then takes a collective decision on whether to make, in accordance with paragraph 14 of ST/AI/308/Rev.1, a recommendation on the appropriate action to be taken regarding the case to the Assistant Secretary-General for Human Resources Management. Such recommendations are normally made in writing.

10. In addition to actively pursuing resolution of conflict situations, Panel members provided counselling to staff members in dealing with their grievances, which was one of the most important and helpful aspects of the activities of the Panel members.

C. Breakdown of cases

11. The Panel handled 38 cases in the period covered by this report. Of the 38 formal cases handled by the Panel, 29 were from Headquarters and 9 were from agencies or duty stations away from Headquarters. Although Panels exist at other duty stations, these 9 complainants chose, as provided for by ST/AI/308/Rev.1, to take recourse to the Headquarters Panel rather than to their local panels. The distribution of the complaints by agency and duty station is shown below in table 1. It should be noted that the current Panel considered three cases that were not concluded by the previous Panel.

12. Table 2 provides a breakdown of the complaints by staff member, by category and gender.

Table 1
Distribution of cases by duty station and offices

Office duty station	*Number of cases*
Headquarters	29
Economic Commission for Africa	2
Economic and Social Commission for Western Asia	1
International Criminal Tribunal for the Former Yugoslavia	2
The United Nations Military Observer Group in India and Pakistan	1
United Nations Office at Geneva	2
United Nations Office at Vienna	1

Table 2
Complaints referred to the Panel by gender and category of staff

Category	*Male*	*Female*
Professional	13	9
General Service	7	7
Other[a]	2	
Total	**22**	**16**

[a] Trades and Crafts, Field Service and Security Officers.

13. Table 3 shows the status of the cases. Final disposition of cases is divided into five categories:

(a) Cases settled through conciliatory arrangements (i.e., resolved informally);

(b) Cases in which the Panel did not find sufficient evidence to support the staff member's allegations;

(c) Cases on which a recommendation was submitted to the Assistant Secretary-General for Human Resources Management;

(d) Cases that are being monitored by the Panel;

(e) Pending cases.

Table 3
Status of cases as at 31 December 1998

Status	*Number of cases*
Resolved	11
Closed for lack of supporting evidence	12
Referred to the Assistant Secretary-General/Human Resources Management	6[a]
Pending with the Office of Human Resources Management	4
Further claims to the Joint Appeals Board/Administrative Tribunal	2
Being monitored	2
Pending	7

[a] One report included the results of the investigation of three cases.

D. Types of grievances brought before the Panel

14. As in the past, the most prevalent grievance brought to the attention of the Panel was lack of promotion or career development, followed by negative work environment. The Panel noted with concern that several cases, resulting in three (of the four) written reports to the Assistant Secretary-General/Human Resources Management, were related to non-extension of fixed-term appointments. Despite the Secretary-General's expressed commitment of no involuntary separations in relation to reform and restructuring, in one case on which the Panel submitted a written report to the Office of Human Resources Management, the non-extension of a fixed-term contract was explicitly linked by the Administration to a reorganization of activities and programmes.

15. A rigid classification of cases according to the type of underlying grievance is very difficult, since cases are seldom based on a single allegation. In several cases, however, allegations of unfair treatment were explicitly linked by complainants to allegations of discrimination and/or harassment. The Panel considered one case which was based on allegations of racial discrimination, two cases of allegations of discrimination on the basis of nationality and four cases of allegations of gender discrimination. The Panel also had one pending case, initiated and reported to the Assistant Secretary-General/Human Resources Management by the previous Panel, that was based on allegations of sexual harassment.

16. The Panel conducted thorough investigations of the above cases. The allegations of racial discrimination were found not substantiated. In the two cases involving allegations of discriminatory treatment based on nationality, one is still pending and the other was found unsubstantiated. With regard to the four cases involving allegations of gender discrimination, one was found unsubstantiated, two are still pending and one was reported to the Office of Human Resources Management. As far as the latter case is concerned, partial action was taken which was not, however, adequate to resolve the conflict. The staff member involved filed a further claim to the Joint Appeals Board.

E. Difficulties encountered by Panel members

17. As reported above, a number of cases brought before the Panel were from offices or duty stations away from Headquarters even though, in some cases, local panels were in place. Staff members at these smaller duty stations often express the concern that local Panel members could be subjected to extreme pressure from the administration. As a result,

logistical difficulties may arise in respect of the Panel's fact-finding investigation, in a particular case at another duty station. This may sometimes hinder the Panel's work in addressing the factual circumstances of a case.

F. General recommendations

18. The Panel wishes to reiterate that its basic function is to resolve grievances, real or perceived, by informal means. This is best accomplished when the Panel becomes involved before a conflict becomes the subject of a formal process, such as an exchange of memoranda.

19. The Panel can be effective in its function as an impartial and independent facilitator if it enjoys the trust of both staff and the Administration. In this context, the Panel wishes to emphasize that, in pursuing its cases, it does not act on behalf of either the staff or the Administration. As it is in the interest of the Organization and all of its staff to resolve problems before they become conflicts, the Panel recommends that administrators who are having difficulties with their staff contact the Panel before the problems escalate.

20. There were several instances when, even though the Office of Human Resources Management had concurred with the Panel's conclusions on individual cases, adequate remedial personnel actions were not undertaken by the departments/offices involved. The Panel believes that better coherence of positions and actions on personnel matters between the Office of Human Resources Management and substantive department/offices, in conformity with the Organization's stated objective of enhancing managerial accountability, would therefore be very helpful in achieving more harmonious and cooperative staff/management relations in the Organization.

II. Activities of the Panel at Geneva for the period from 1 January 1997 to 31 December 1998

A. Membership

21. As announced in information circular IC/Geneva/4207 of 28 November 1995, the membership of the Panel during the reporting period was as follows: E. Calon, M.F. Charrin, Magdi Elias and Ernest Mbuli. A. Ben Hadid was acting as Coordinator of the Panel.

B. Procedures

22. During the period covered by the present report, the Panel held regular as well as a number of extraordinary meetings to review the state of advancement of the cases before it and discuss matters concerning the handling of certain cases, the conduct of investigations or the follow-up to its recommendations. In general, staff members referred cases to the Panel through direct contact with one of the members or with the Coordinator. In most cases, the staff members concerned were requested to submit a written statement of the facts, with a clear indication of the grievances. If the case, after a preliminary enquiry, was considered admissible, two members of the Panel were designated to handle the matter and try to find a solution through informal means. Whenever this seemed not to be feasible and if the case so required, a written recommendation, agreed upon by the Panel as a whole, was addressed to the Director-General of the United Nations Office at Geneva, with a copy to the parties concerned, for appropriate action.

23. The work of the Panel consisted, *inter alia*, in investigation and fact-finding approaches, interviews with the interested parties, negotiation with the concerned managerial

officers, conciliation and follow-up action. The Panel provided also counselling and guidance to staff members in order to prevent future conflicts.

C. Statistical breakdown of cases

24. During the reporting period, 11 cases of alleged discriminatory treatment and other grievances were submitted to the Panel. This figure does not include the cases where a Panel member provided counselling and consultancy to a staff member.

25. The distribution and breakdown of the complaints are shown in the following tables. Table 4 gives the distribution of cases by the agency, office or department to which the complainants belong.

Table 4
Distribution of cases by agency/office at Geneva

Agency office	*Number of cases*
United Nations Office at Geneva	4
Economic Commission for Europe	1
Secretariat of the United Nations Conference on Trade and Development	1
Office of the High Commissioner/Centre for Human Rights	1
Department of Humanitarian Affairs	–
Office of the United Nations High Commissioner for Refugees	–
International Trade Centre	2
Convention on International Trade in Endangered Species of Wild Fauna and Flora (administered by the United Nations Environment Programme)	2
Total	**11**

26. Table 5 gives a breakdown of cases according to the staff member's gender and service categories.

Table 5
Complaints referred to the Panel by gender and service category of staff

Category	*Female*	*Male*	*Total*
Professional	2	3	5
General Service	4	2	6
Other[a]	–	–	–
Total	**6**	**5**	**11**

[a] Trades and Crafts, Field Service and Security Officers.

27. Table 6 shows the number of cases referred to the Panel according to the main grounds that prompted the grievance.

Table 6
Cases of alleged discriminatory treatment, by type

	Contractual Status		*Promotion*		*Performance evaluation*		*Working conditions*		*Transfer*		*Other*		
Category	F	M	F	M	F	M	F	M	F	M	F	M	*Total*
Unfair treatment/ personal relations	2	1	1	1	–	–	2	2	1	1	–	–	11
Total	**3**		**2**		**–**		**4**		**2**		**–**		**11**

D. Types of complaints

28. As shown in table 6, the cases classified under the contractual status category refer generally to non-renewal or termination of short-term or fixed-term contracts, or non-granting of permanent contracts. During the period under review, this category of cases pertained also to the termination of permanent contracts whether on agreed terms (one case, where the Panel acted as mediator and helped in settling it) or as special leave with full pay (one case, which is still pending; the complainant requested the Panel to suspend the case for health reasons).

29. As to the cases in the promotion category, the Panel noted that they were mostly due to limited career prospects and to a certain lack of transparency in the recommendation and selection procedures, thus giving rise to a feeling of frustration among eligible candidates in the services concerned. In this context, it is to be noted that there are no departmental panels for General Service, such as those established for the Professional category.

30. Concerning the working conditions category, cases related mainly to a lack of communication and to a certain form of managerial rigidity which led, often, to a deadlock or a deterioration of work relations. Under this category, the Panel found it difficult to handle the cases from the secretariat for the Convention on International Trade in Endangered Species of Wild Fauna and Flora, owing to the remoteness of the administration concerned (UNEP) and the difficulty in collecting all necessary information. Since the cases were also referred to the Office of Internal Oversight Services, the Panel advised the complainants to suspend them awaiting the conclusions of that Office.

31. The cases classified under the transfer category were due to the reorganization of the services concerned, which necessitated a redeployment of staff, or to conflicts among certain staff members. The complainants were reluctant to accept such transfers. One case was settled informally and the other one was considered inadmissible.

E. Status of cases as at 31 December 1998

32. Table 7 shows the status of cases handled during the reporting period.

Table 7
Status of cases as at 31 December 1998

Status	*Number of cases*
1. Resolved informally or closed	2
2. Referred to the Director-General:	
(a) Implemented:	
(i) Fully	1
(ii) In part	–
(b) Awaiting implementation	–
(c) No action	1
3. Under review	–
4. Withdrawn	2
5. Pending	3
6. Rejected	2
Total	**11**

F. Difficulties encountered and recommendations

33. The Panel had no particular difficulties in conducting its investigation, interviews and negotiations. All parties approached (personnel service officers, heads of departments or services, staff representation bodies) were cooperative and willing to help the Panel to find a solution.

34. The Panel noted, however, that the reasons invoked to terminate a contract were not substantiated to the Panel's satisfaction and should be clearly and objectively explained.

35. The Panel wishes to point out that despite the fact that its membership was incomplete during the reporting period, it tried to handle the cases before it as promptly as possible.

III. Activities of the Panel at Nairobi for the period from 1 January to 31 December 1998

A. Membership

36. The composition of the Panel at Nairobi during the reporting period was as follows: Sylvie Campaigne, Sylvie LaCroux, Jorge Gavidia, Donald Kaniaru and Helen Mwambungu. K. Madhava Sarma served as Coordinator.

B. Procedures

37. Cases were brought to the attention of the Panel by staff members who had made a written representation to the Coordinator. These representations were then sent by the Coordinator to the relevant officers of UNEP, the United Nations Centre for Human Settlements (Habitat) or the United Nations Office at Nairobi for their remarks. Copies of all correspondence were sent to the other members of the Panel by the Coordinator. After responses were received, the Panel met, studied the responses and took a decision on the persons who needed to be heard personally to clarify their responses or to get further information. Meetings of the Panel were then held to hear elaborations from the complainant and the relevant officers. Minutes of each meeting were sent to all the Panel members. The Panel then met to consider all the issues to finalize its recommendations. These

recommendations were sent to the appropriate officers for their consideration and action to solve the problem with a request to let the Panel know the action taken.

C. Statistical breakdown of the cases

38. The Panel handled three cases in the period covered by this report. One was from a Professional staff member whose contract was not being extended. The second, from a Professional staff member in the Industry and Environment Office of the United Nations Environment Programme in Paris, concerned a demand for payment of a tax by the Government of France, though the staff member was exempt from the tax because of diplomatic status. The third concerned a complaint from a General Service staff member at the office of the Mediterranean Action Plan (UNEP) at Athens, who sought to be selected for a post in the office that had been advertised.

D. Status of cases as at 31 May 1999

39. In two cases, the Panel recommended administrative action by UNEP or the United Nations Centre for Human Settlements (Habitat). No action was necessary in the third case.

E. Difficulties encountered by Panel members in the course of their investigations

40. The Panel received generally prompt responses from UNEP, the United Nations Centre for Human Settlements (Habitat) and the United Nations Office at Nairobi. There has, however, been no feedback from UNEP so far as regards the case concerned.

F. General recommendations

41. The Panel wishes to recommend that all United Nations organizations provide prompt feedback with regard to the Panel's recommendations.

IV. Activities of the Panel at the Economic and Social Commission for Asia and the Pacific, Bangkok, for the period from April 1997 to December 1998

A. Membership

42. A new Panel was constituted on 23 January 1998. In accordance with administrative instruction ST/AI/308/Rev.1, the following staff members were recommended by the Executive Secretary and approved by the Secretary-General to serve as members of the Panel for a term of two years from 23 January 1998 to 22 January 2000: John F. Elliot (Coordinator), Cengiz Ertuna, Jerrold W. Huguet, Kesarin Roongruangmanirat and Marasri Wongratana.

B. Procedures

43. During the period from April 1997 to December 1998, the Panel did not receive and review any grievance cases.

V. Activities of the Panel at Vienna for the period from 1 October to 31 December 1998

A. Membership

44. The composition of the Panel effective 1 October 1998 was as follows: Adam Bouloukos, Smart Eze, Hubert George, Gabriele Wagner and Gisela Wieser-Herbeck. Jean Datta served as the Coordinator.

B. Procedures and status of cases

45. As at 31 December 1998, one case was brought to the attention of the Panel, having been forwarded by the Human Resources Management Service. It concerned six General Service staff members, five female and one male, all in the Translation and Editorial Service, complaining about the classification level of their posts. A member of the Panel discussed the matter with the Chief of the Service and was informed that the classification level of the posts was under consideration. The Panel trusts that the problem will be resolved without further intervention.

VI. Activities of the Panel at the Economic and Social Commission for Western Asia, Beirut, for the period from 1 June 1997 to December 1998

A. Membership

46. The membership of the Panel through December 1998 was: Kathleen Abdallah, Ahmed Humeida and Ayalew Zewdinesh. Ahmed Farahat served as Coordinator. Effective 1 June 1999, the following membership was approved for a period of two years: Mahmoud El-Hibir, Walid Hilal, Mohamad Ehsan Osman, Kumiko Powell and Mesfin Teklu. Youssef Gemayel will serve as Coordinator.

B. Procedures

47. The Panel did not receive any cases for consideration.

VII. Activities of the Panel at the Economic Commission for Africa, Addis Ababa, for the period from 22 July 1997 to 21 July 1999

A. Membership

48. During the period under review, the Panel at the Economic Commission for Africa (ECA) was composed of 14 members of whom 7 were members and 7 were alternate members. The members were: Enoch F. Chinganda, Abdishakour Gulaid, Nancy J. Hafkins, Clementine Igwebe, Jennifer Kargbo, Adama Traore and Urbain Zadi. The alternate members were: Konjit Haile Selassie, Ahmadou Kotondi, Akalu Mammo, Rawda Omar-Clinton, Eloho Otobo, Maaza Sisay and Mohamed Youssuf. Clementine Igwebe, a member, served as Coordinator.

B. Procedures

49. The Panel, at its inaugural meeting, adopted a working procedure that combined the use of formal and informal meetings in resolving cases brought before it. As such, the use of informal means to resolve cases was fully explored and utilized as the first option. Formal means were adopted only if absolutely necessary. Cases were assigned to members of the Panel who carried out the necessary investigations and reported findings and recommendations to the full Panel which then took the final decisions or recommendations and informed the concerned staff of the developments.

C. Statistical breakdown of cases

50. Five cases were dealt with, one of which was a follow-up to the implementation of the previous Panel's recommendation. The four new cases were as follows: one case concerned a female staff member and three male staff members; two of the cases were from staff members in the Professional category; and the remaining three were from staff in the General Service category.

51. The complaints were all administrative in nature and alleged the following:

(a) Unfair application of rules governing application of the post adjustment element in salary calculation of short-term staff in the Professional category;

(b) Unfair administrative practices vis-à-vis staff reassignment which did not take into consideration seniority and linguistic criteria used in the selection of administrative assistants during the restructuring exercise;

(c) Delayed action to effect change in functional title to reflect the actual nature and tasks performed, following the reorganization of the Conference Services Section;

(d) Indecision about the reintegration of a disabled person, specifically, the establishment of an office at ECA and other special considerations, including the recruitment of a spouse and special education allowances to cover the cost of a child's education;

(e) Continued delay in implementing the recommendation of the previous Panel regarding retroactive payment for failure to comply with a decision of the General Assembly regarding staff in the language category (revisers, translators and interpreters).

D. Current status of cases

52. The case mentioned in paragraph 51 (d) above has been fully resolved and the recommendation of the Panel made known to the concerned individual. The case mentioned in paragraph 51 (c) will be resolved during the implementation of the maintenance stage of the General Service classification exercise at ECA. The other three cases have not been resolved and will have to be handed to the incoming Panel for follow-up.

E. Difficulties encountered

53. The Panel experienced some major difficulties in getting the necessary documentation from the Human Resources System Management Division.

F. General recommendations

54. The Panel recommends the development of a working arrangement with the Human Resources System Management Division to improve access to necessary documentation so as to facilitate the work of the Panel.